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C O N F I D E N T I A L SECTION 01 OF 02 TUNIS 001048

SIPDIS

STATE FOR EB/IFD/OIA, L/EB, AND NEA/MAG (LAWRENCE)  
STATE (LAWRENCE) PLEASE PASS TO COMMERCE FOR ITA/MAC/ONE  
(DAVID ROTH) AND ADVOCACY CENTER (CHRIS JAMES) AND TO USTR  
(DOUG BELL)  
CASABLANCA FOR FCS (GAIL DEL ROSAL)

E.O. 12958: DECL: 05/16/2015  
TAGS: [ECON](#) [ENRG](#) [KIDE](#) [EINV](#) [TS](#)  
SUBJECT: TUNISIA'S ENERGY CZAR EXPLAINS POSITION ON U.S.  
INVESTOR FOR RENEWABLE ENERGY

REF: A. TUNIS 776

[1](#)B. TUNIS 867

Classified By: Ambassador William J. Hudson; Reasons: 1.4(b),(d)

[1](#)1. (C) Summary. Econoff's meeting with the head of Tunisia's electricity monopoly reveals that a U.S. investor, EnerCiel, will likely need to seek relief through the court system or reach a compromise given the hardening of legal positions and the difficulties EnerCiel is facing with moving forward with its development project. EnerCiel is not likely to go down without a fight and is seeking further intervention, including from Senator Kerry's (D-MA) offices. End summary.

Background: U.S. Investor's Lease Canceled  
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[1](#)2. (C) May 11, Econoff met with President and General Manager of Tunisia's state-owned electricity monopoly (STEG), Othman Ben Arfa, to discuss renewable energy development in Tunisia, particularly wind energy and the investment of a U.S.-owned company, EnerCiel. EnerCiel has been working in Tunisia since 1998 to study wind energy development and has spent a claimed USD 2 million to date. As part of its efforts, EnerCiel entered into a 30-year lease in 2002 with the Ministry of Agriculture for land located on the north-west peninsula of Tunisia. The Ministry of Agriculture subsequently canceled that lease in late 2004. Reftels detail Embassy Tunis' ongoing efforts to facilitate a resolution in this case.

[1](#)3. (C) Ben Arfa stated that the GOT has canceled the lease because Tunisian law prohibits the granting of private concessional agreements without an open bidding process, and thus EnerCiel is effectively precluded from developing the site. Nonetheless, Ben Arfa stated that the site should/should be developed because it is the best site available and STEG could do so cost-effectively as STEG will have access to soft loans and other subsidies to make production cost feasible. (EnerCiel representatives have countered that there are numerous other sites of equal potential and they believe the cancellation to be based on a specious justification to enable STEG to use EnerCiel's research data that was previously voluntarily shared.)

[1](#)4. (C) Given the lease cancellation, Ben Arfa expects that STEG will receive the right to produce 80 megawatts through a division of half the EnerCiel site, with a public tender for the remaining 80 megawatts from the rest of the parcel. According to Ben Arfa, EnerCiel could bid competitively on the public tender, though he cautioned that any private sector production of wind energy could not be done at an affordable cost. Ben Arfa could not explain why the GOT would seek to promote private-sector energy production if cost-effectiveness is questionable.

Comment/Analysis: Tunisians Lining up their Legal Ducks  
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[1](#)5. (C) The fact that the private sector may not be able to produce energy at market bearing prices should be left to private sector decision makers. Given, however, the legal position the GOT and STEG are taking arguing that EnerCiel is effectively precluded from further development of the site, we believe EnerCiel may be obliged to seek redress and/or compensation through the Tunisian judicial system or via international arbitration if a compromise solution cannot be reached.

[1](#)6. (C) Our efforts to resolve this impasse have resulted in overtures from the GOT seeking EnerCiel's suggestions for resolution. Nonetheless, EnerCiel feels aggrieved about its possible loss of investment and has sent a request to Senator Kerry's (D-MA) offices for intervention as constituent representative of EnerCiel's parent company, UPC Wind. (Econoff detailed Post's history of this case for Kerry staffer, Tyke Crowley, in a telcon May 13. Crowley and Kerry advisors are currently considering the case.) Even with such an intervention, we are not optimistic that the GOT will alter its current position. Significant Embassy efforts to

date, including Ambassador's letters to the Ministers of Energy and Agriculture, as well as discussion with Presidential special advisors, have clarified the GOT and STEG position. Communication between the GOT and EnerCiel has also emerged, but so far has not altered the situation. STEG appears capable of absorbing political pressure from very high levels with minimal impact, at least up to this point.

Biographical Note: STEG President Othman Ben Arfa

16. (C) Ben Arfa studied for four years in California at the now defunct Northrup University in Inglewood. He also played a role in Tunisia's first wind energy development project in Sidi Daoud (near the site subject to EnerCiel's lease) for 20 megawatts at a time when France's total production was a mere two megawatts. Moreover, Ben Arfa evinces a fondness for his previous dealings with the U.S. Embassy here, amiably recounting his prior association with former U.S. Ambassadors. Ben Arfa also enjoys noting past positive engagements with U.S. companies like General Electric, Tunisia's largest supplier of turbine engines.

17. (C) Ben Arfa strives to present a non-threatening face for STEG and does not possess overt animus toward foreign investment (including U.S. investment), nor toward renewable energy per se. Tunisia is, however, a country with huge European foreign investment and insinuations of partiality are not uncommon. Ben Arfa is protective of STEG's empire and is resistant to dilution by private sector entrants as he is attempting to reform STEG from a lumbering state-controlled apparatus to a more modern, efficient enterprise.

HUDSON